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HOUSE BILL 419

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

INTRODUCED BY

Ben Lujan

AN ACT

RELATING TO INDUSTRIAL REVENUE BONDS; PROVIDING CERTAIN
NOTIFICATION REQUIREMENTS PRIOR TO ISSUANCE; PROVIDING FOR A
MAXIMUM TWENTY-YEAR TERM; RESTRICTING, FOR BONDS ISSUED AFTER
JANUARY 1, 2002, PROPERTY TAX EXEMPTIONS TO CERTAIN REAL
PROPERTY INTERESTS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 3-32-6.1 NMSA 1978 (being Laws 1997,
Chapter 216, Section 2 and also Laws 1997, Chapter 226, Section
2) is amended to read:

"3-32-6.1. [~~MUNICIPALITY OVER TWO HUNDRED THOUSAND~~]
NOTICE TO COUNTY. --

A. Prior to adopting an ordinance issuing
industrial revenue bonds [~~in a municipality with a population
in excess of two hundred thousand~~], the municipality shall give

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1 notice to the ~~[county]~~ board of county commissioners and the
2 county assessor of its intent to consider the matter. The
3 ~~[county]~~ board and the county assessor shall be notified at
4 least ~~[thirty]~~ sixty days prior to the meeting at which final
5 action is to be taken so that comments can be transmitted ~~[by~~
6 ~~the county]~~ to the municipality.

7 B. The ~~[county]~~ board of county commissioners and
8 the county assessor shall be able to forward ~~[its]~~ their
9 comments and any concerns to the city council, but there is no
10 approval required from the ~~[county and the county does]~~ board
11 or the county assessor and they do not have veto over the
12 proposed industrial revenue bond issuance.

13 C. The municipality and county shall jointly
14 develop criteria for issuance of industrial revenue bonds by
15 either government; provided, however, that industrial revenue
16 bonds may be authorized and issued before development of the
17 criteria is completed. "

18 Section 2. Section 3-32-7 NMSA 1978 (being Laws 1965,
19 Chapter 300, Section 14-31-4, as amended) is amended to read:

20 "3-32-7. BONDS ISSUED TO FINANCE PROJECTS. -- Bonds issued
21 by a municipality under authority of the Industrial Revenue
22 Bond Act shall not be the general obligation of such
23 municipality within the meaning of Article 9, Sections 12 and
24 13 of the constitution of New Mexico. The bonds shall be
25 payable solely out of the revenue derived from the projects ~~[to~~

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1 ~~finance~~] for which the bonds are issued. Bonds and interest
2 coupons, if any, issued under authority of the Industrial
3 Revenue Bond Act shall never constitute an indebtedness of the
4 municipality within the meaning of any state constitutional
5 provision or statutory limitation and shall never constitute or
6 give rise to a pecuniary liability of the municipality or a
7 charge against its general credit or taxing powers, and such
8 fact shall be plainly stated on the face of each bond. The
9 bonds may be executed and delivered at any time, and from time
10 to time, may be in such form and denominations, may be of such
11 tenor, may be in registered or bearer form either as to
12 principal or interest or both, may be payable in such
13 installments and at such time or times not exceeding [~~thirty~~]
14 twenty years from their date, may be payable at such place or
15 places, may bear interest at such rate or rates payable at such
16 place or places and evidenced in such manner and may contain
17 such provisions not inconsistent with the Industrial Revenue
18 Bond Act, all as shall be provided in the ordinance and
19 proceedings of the governing body whereunder the bonds are
20 authorized to be issued. Any bonds issued under the authority
21 of the Industrial Revenue Bond Act may be sold at public or
22 private sale in such manner and from time to time as may be
23 determined by the governing body to be most advantageous, and
24 the municipality may pay all expenses, [~~attorneys'~~] attorney,
25 engineering and architects' fees, premiums and commissions

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1 [which] that the governing body may deem necessary or
2 advantageous in connection with the authorization, sale and
3 issuance of the bonds. All bonds issued under the authority of
4 the Industrial Revenue Bond Act and all interest coupons
5 applicable thereto, if any, shall be construed to be
6 negotiable. "

7 Section 3. Section 4-59-4.1 NMSA 1978 (being Laws 1997,
8 Chapter 216, Section 4 and also Laws 1997, Chapter 226, Section
9 4) is amended to read:

10 "4-59-4.1. CLASS A COUNTY--NOTICE TO MUNICIPALITY [~~OVER~~
11 ~~TWO HUNDRED THOUSAND~~] AND COUNTY ASSESSOR. --

12 A. Prior to adopting an ordinance issuing county
13 industrial revenue bonds, a [~~class A~~] county shall give notice
14 to [~~a~~] the county assessor and the largest municipality [~~with a~~
15 ~~population in excess of two hundred thousand~~] located within
16 the county of its intent to consider the matter. The county
17 assessor and the municipality shall be notified at least
18 [~~thirty~~] sixty days prior to the meeting at which final action
19 is to be taken so that comments can be transmitted [~~by the~~
20 ~~municipality~~] to the county.

21 B. The county assessor and the municipality shall
22 be able to forward [~~its~~] their comments and any concerns to the
23 board of county commissioners, but there is no approval
24 required from the municipality or the county assessor and [~~the~~
25 ~~municipality does~~] they do not have veto over the proposed

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1 county industrial revenue bond issuance.

2 C. The county and the municipality shall jointly
3 develop criteria for issuance of industrial revenue bonds by
4 either government; provided, however, that county industrial
5 revenue bonds may be authorized and issued before development
6 of the criteria is completed. "

7 Section 4. Section 4-59-5 NMSA 1978 (being Laws 1975,
8 Chapter 286, Section 5, as amended) is amended to read:

9 "4-59-5. BONDS ISSUED TO FINANCE PROJECTS. --

10 A. Bonds issued by a county under authority of the
11 County Industrial Revenue Bond Act shall not be the general
12 obligation of such county within the meaning of Article 9,
13 Sections 10 and 13 of the constitution of New Mexico. The
14 bonds shall be payable solely out of the revenue derived from
15 the projects for which the bonds are issued. Bonds and
16 interest coupons, if any, issued under authority of the County
17 Industrial Revenue Bond Act shall never constitute an
18 indebtedness of the county within the meaning of any state
19 constitutional provision or statutory limitation and shall
20 never constitute or give rise to a pecuniary liability of the
21 county or a charge against its general credit or taxing powers,
22 and such fact shall be plainly stated on the face of each bond.

23 B. Such bonds may be executed and delivered at any
24 time, and from time to time, may be in such form and
25 denominations, may be of such tenor, may be in registered or

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1 bearer form either as to principal or interest or both, may be
2 payable in such installments and at such time or times not
3 exceeding ~~[thirty]~~ twenty years from their date, may be payable
4 at such place or places, may bear interest at such rate payable
5 at such place or places and evidenced in such manner and may
6 contain such provisions not inconsistent with this section, all
7 as shall be provided in the ordinance and proceedings of the
8 governing body under which the bonds shall be authorized to be
9 issued.

10 C. Any bonds issued under the authority of the
11 County Industrial Revenue Bond Act may be sold at public or
12 private sale in such manner and from time to time as may be
13 determined by the commission to be most advantageous, and the
14 county may pay all expenses, ~~[attorneys']~~ attorney, engineering
15 and architects' fees, premiums and commissions ~~[which]~~ that the
16 commission may deem necessary or advantageous in connection
17 with the authorization, sale and issuance of the bonds.

18 D. All bonds issued under the authority of the
19 County Industrial Revenue Bond Act and all applicable interest
20 coupons shall be construed to be negotiable."

21 Section 5. Section 7-36-3 NMSA 1978 (being Laws 1975,
22 Chapter 218, Section 1, as amended) is amended to read:

23 "7-36-3. INDUSTRIAL REVENUE BOND AND POLLUTION CONTROL
24 BOND PROJECT PROPERTY--TAX STATUS.--

25 A. Property interests of a lessee in project

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1 property held under a lease from a county or a municipality
2 under authority of an industrial revenue bond or pollution
3 control revenue bond act are exempt from property taxation for
4 as long as there is an outstanding bonded indebtedness under
5 the terms of [~~the~~] revenue bonds outstanding on January 1, 2002
6 and issued for the acquisition of the project property, but in
7 no event for a period of more than thirty years from the date
8 of execution of the first lease of the project to the lessee by
9 the county or municipality.

10 B. Real property interests of a lessee in project
11 property held under a lease from a county or a municipality
12 under authority of an industrial revenue bond or pollution
13 control revenue bond act are exempt from property taxation for
14 as long as there is an outstanding bonded indebtedness under
15 the terms of revenue bonds issued on or after January 1, 2002
16 for the acquisition of the project property, but in no event
17 for a period of more than twenty years from the date of
18 execution of the first lease of the project to the lessee by
19 the county or municipality.

20 [~~B.-]~~ C. Property interests of a person, other than
21 a public utility, arising out of the purchase of a project,
22 authorized by the Industrial Revenue Bond Act, the County
23 Industrial Revenue Bond Act or the Pollution Control Revenue
24 Bond Act and acquired with the proceeds of revenue bonds issued
25 before January 1, 2002, are exempt from property taxation for

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1 as long as the project purchaser remains liable to the project
2 seller for any part of the purchase price, but not to exceed
3 thirty years from the date of execution of the sale agreement.

4 D. Real property interests of a person, other than
5 a public utility, arising out of the purchase of a project,
6 authorized by the Industrial Revenue Bond Act, the County
7 Industrial Revenue Bond Act or the Pollution Control Revenue
8 Bond Act and acquired with the proceeds of revenue bonds issued
9 on or after January 1, 2002, are exempt from property taxation
10 for as long as the project purchaser remains liable to the
11 project seller for any part of the purchase price, but not to
12 exceed twenty years from the date of execution of the sale
13 agreement.

14 [~~E.~~] E. The exemptions from property taxation under
15 [~~Subsections A and B of~~] this section are not cumulative. "

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